

Larry E. Craig, Chairman  
Jade West, Staff Director

No. 4

March 12, 1997

## **S.J.Res. 18 – Constitutional Amendment Allowing Congress and the States to Regulate Contributions and Expenditures in Elections**

Calendar No. 20

Not reported from a committee; read twice and placed on the Calendar.

### **NOTEWORTHY**

- The Senate will turn to S.J.Res. 18 early this afternoon.
- By unanimous consent, no amendment or motion is in order, and following the conclusion of debate the resolution will be read a third time and voted on without any intervening action.
- The text of S.J.Res. 18 is shown on the second page of this *Legislative Notice*.
- Senator Hollings is the chief sponsor of the resolution. He is joined by 10 Democratic cosponsors (including Senators Daschle and Ford); Senator Specter is the only Republican cosponsor.
- Senators McCain and McConnell, who are known to have their differences on changing Federal campaign laws, are both strong *opponents* of S.J.Res. 18.
- The Senate has voted on (or in relation to) the Hollings amendment in previous Congresses [see Background, p. 2].
- Proposed constitutional amendments require a vote of two-thirds of each House of Congress. They become a part of the Constitution when ratified by three-fourths of the States. The President has no formal role in amending the Constitution.

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## BILL PROVISIONS

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### Senate Joint Resolution 18

“Section 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

“Section 2. A State shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

“Section 3. Congress shall have power to implement and enforce this article by appropriate legislation.”

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## BACKGROUND

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On February 14, 1995 (roll call vote no. 68), Senator Hollings attempted to add his campaign finance amendment to the Balanced Budget Constitutional Amendment. His amendment was *tabled* on a vote of 52 (49 Republicans and 3 Democrats) to 45 (2 GOP and 43 Dem).

On May 27, 1993 (roll call vote no. 129), the Senate *adopted* a Hollings “sense of the Senate” amendment to a campaign “reform” bill. The amendment called on Congress to propose a constitutional amendment similar to this year’s Hollings’ amendment. The amendment was agreed to by a vote of 52 (6 GOP and 46 Dem) to 43 (35 GOP and 8 Dem).

Also, there were related cloture votes in April, 1988 (roll call vote nos. 107 and 108).

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## ADMINISTRATION POSITION

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No official Statement of Administration Policy has been received.

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## OTHER VIEWS

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### *Views of a Republican Supporter*

Senator Specter is a strong *supporter* (and cosponsor) of Senator Hollings's proposed constitutional amendment. On January 21, 1997, he spoke on the Senate floor in support of the amendment. The following is an excerpt from his remarks:

"The unprecedented spending levels during 1996 Presidential and Congressional campaigns should serve as the impetus for approving this constitutional amendment. Presidential candidates spent a total of \$237 million in the 1996 primary campaigns, of which \$56 million represented publicly funded matching payments. Public financing of the general election added \$153 million to the total. . . .

"The 1996 Congressional campaign cycle was similarly grim for all but television station advertising managers and political consultants. There were record levels of spending, including \$220.8 million by Senate candidates and \$405.6 million by House candidates. This spending, much of which went to negative television commercials, did little to restore the public's confidence in the electoral process, much less our institution.

"The Supreme Court has made this proposed amendment even more urgent through its June, 1996 decision in *Colorado Republican Federal Campaign Committee versus Federal Election Commission* [116 S. Ct. 2309]. In that case, the Court cut an enormous hole in the remaining Federal campaign spending limits by striking down a restriction on party spending when the parties are acting independently of the candidates they support. \* \* \*

"Simply put, Congress should have the authority to establish a spending limit in Federal elections without regard to the First Amendment limitation which was applied by the Supreme Court in *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam)). In approaching this matter, Mr. President, I am very concerned about amending the First Amendment to the U.S. Constitution, which covers the freedoms of speech, religion, press, and assembly. But, the constitutional amendment we are proposing really does not go to any of these core First Amendment values. This is not a matter affecting religion. It is not a matter really affecting speech." 143 *Cong. Rec.* S 557 (daily ed. Jan. 21, 1997).

### *Views of a Republican Opponent*

Senator McConnell is a strong *opponent* of Senator Hollings's proposed amendment. On February 27 of this year he testified before the Subcommittee on the Constitution of the House Judiciary Committee. The following is an excerpt from his remarks:

"Some seek to nullify the [Supreme] Court by amending the First Amendment for the first time in two centuries and, thus, make the unconstitutional, constitutional. They would rewrite the First Amendment — a frontal assault on American freedom that the ACLU has characterized as 'a recipe for repression.'

"I recoil at the prospect of a Constitution so altered, while I relish the debate itself. It is honest. It draws a clear line between those, like myself, who look on last year's record election spending as illustrative of robust debate, and those who believe you cannot have both freedom of speech and a healthy democracy.

"I have drafted campaign finance bills and know well the temptation to gore the other side's ox. Sometimes a blessing, sometimes a curse, it is always a fact that campaign finance reform does not lend itself to surgical precision. Here the law of unintended consequences is particularly salient.

"Looking upon the First Amendment as an impediment to reform, rather than reform itself, is a sure ticket to frustration and folly. The First Amendment should be the touchstone of reform, and *Buckley v. Valeo* its guide. Within those parameters, we could enact bipartisan reform to strengthen, rather than diminish, our democracy."

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